


Leave Policy for Classified LDH Employees

	Louisiana Department of Health	
	Policy Number	28.4
	Content	Policy governing leave administration for classified employees in LDH
	Effective Date	August 01, 2017
	Inquiries to	Office of Management and Finance Division of Human Resources, Training and Staff Development P. O. Box 4818 Baton Rouge, Louisiana 70821-4818

If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/override/supersede the conflicting section within the Program Office or facility policy.

I. POLICY STATEMENT

It shall be the policy of the Louisiana Department of Health (LDH) to administer leave for classified employees as equitably as possible in accordance with all applicable laws, regulations and Civil Service Rules. All leave shall be charged in 6-minute increments within LDH. Appointing authorities may implement procedures for the administration of leave within the parameters provided by this policy and Civil Service Rules. Specific types of leave are addressed in subsequent parts of this policy.

II. APPLICABILITY

This policy applies to all classified employees within LDH who are eligible to earn leave. The Governor customarily issues an Executive Order to provide leave policies that are applicable to unclassified employees.

III. EFFECTIVE DATE

The effective date of this revised policy is August 01, 2017.

IV. RESPONSIBILITIES

The appointing authority for each office and facility within LDH shall be responsible for the administration of this policy. Authority for leave administration may be delegated to subordinate managers and supervisors.

V. TYPES OF LEAVE AND POLICY PROVISIONS FOR EACH TYPE

A. ANNUAL LEAVE (CIVIL SERVICE RULES 11.5; 11.6; 11.7; 11.9; 11.10; 11.19)

1. Annual leave may be granted to employees for rest and relaxation or to attend to personal business when the granting of such leave does not unduly hamper the agency's operations. Employees should request annual leave in advance whenever possible to avoid unscheduled absences. Annual leave shall only be used if approval is obtained from an appointing authority or designee who has the authority to approve leave. An appointing authority or designee does not have to approve a request for annual leave. An appointing authority or designee may rescind a previous approval of annual leave prior to the effective date of the leave for rational business reasons.
2. Requests for annual leave shall be approved for qualifying events as defined by the Family and Medical Leave Act (FMLA) provided that the request for FMLA is approved in accordance with LDH Policy #29 - Family and Medical Leave and federal regulations. Requests for annual leave shall be approved for military purposes in accordance with Civil Service Rule 11.26 and this policy.
3. Annual leave in lieu of sick leave should be granted only when doing so is in the best interest of the agency's operations unless the employee qualifies to use the annual leave in lieu of sick leave under the FMLA.
4. An appointing authority may require an employee to take annual leave (Enforced Annual Leave) when it is in the best interest of the agency to do so. However, the employee cannot be required to reduce his annual leave balance to less than 240 hours. Before placing an employee on Enforced Annual Leave, the appointing authority must consult with human resources and legal staff to assure compliance with all applicable rules and regulations. If an emergency arises requiring the immediate removal of an employee from the workplace, the appointing authority may enforce annual leave on the spot but must contact human resources and legal staff for guidance as soon as possible after enforcing annual leave.
5. Upon separation from LDH employees should consult with human resources staff regarding the disposition of accrued annual leave.

- B. SICK LEAVE (CIVIL SERVICE RULES 11.13; 11.13.1; 11.14; 11.18; 11.19)
1. Sick leave shall be granted to employees provided that:
 - The employee has a legitimate need to use sick leave for his own illness, injury or medical appointments;
 - The employee has a sufficient sick leave balance to cover the absence;
 - The employee has submitted his request for sick leave in accordance with his agency's procedures.
 2. Employees should request sick leave in advance, if possible, to avoid unscheduled absences.
 3. Under certain circumstances, an employee who has less than 8 hours of sick leave and is unable to perform the essential functions of his position may be permanently removed from his position under Civil Service Rule 12.6. The appointing authority must consult with human resources and legal staff before effecting such a removal.
 4. If an employee reports to work and is unable to perform the essential functions of his position due to illness or injury, the appointing authority may require that the employee use sick leave (Enforced Sick Leave). Before placing an employee on Enforced Sick Leave, the appointing authority must consult with human resources and legal staff to assure compliance with all applicable rules and regulations. If an emergency arises requiring the immediate removal of an employee from the workplace due to illness or injury, the appointing authority may enforce sick leave on the spot but must contact human resources and legal staff for guidance as soon as possible after enforcing sick leave.
 5. At any time, the appointing authority or other agency official authorized to approve sick leave may require the employee to furnish a medical certificate for any absence for which sick leave is requested regardless of the duration of the absence. Only Human Resources professionals may contact the health care provider directly to clarify information contained in the medical certificate. If the required medical certificate is not furnished by the employee, the request for sick leave shall not be approved and the employee shall be placed on leave without pay for the absence. If there is doubt about the legitimacy of a medical certificate, the appointing authority may require the employee to obtain a second opinion from a licensed physician selected by the agency as long as the agency pays for the second medical consultation. Documentation requirements for sick leave used for FMLA purposes may be found in LDH Policy #29 - Family and Medical Leave.
 6. Upon separation from LDH employees should consult with human resources staff regarding the disposition of accrued sick leave.

7. Annual leave in lieu of sick leave should be granted only when doing so is in the best interest of the agency's operations unless the employee qualifies to use the annual leave in lieu of sick leave under the FMLA.
- C. COMPENSATORY LEAVE (CIVIL SERVICE RULES – CHAPTER 21)
1. Compensatory leave is compensation in lieu of cash payment for overtime worked. Policies regarding the earning of compensatory leave are included in LDH Policy #45 - Overtime, and LDH Policy #27 - Overtime Compensation for Disaster Operations Work.
 2. All accrued compensatory leave shall be reduced before any reduction of accrued annual leave. Provisions for the use of compensatory leave for FMLA purposes are contained in LDH Policy # 29 - Family and Medical Leave.
 3. Straight (hour for hour) compensatory leave is earned under the provisions of the Civil Service Rules governing State Overtime. By these rules employees are allowed to carry over no more than 360 hours of straight compensatory leave from one fiscal year to the next. Payout of straight compensatory leave at the end of each fiscal year will be made as follows:
 - a. For non-exempt employees whose straight compensatory leave balance exceeds the 360-hour cap, payment shall be made within 90 days after the beginning of the fiscal year for the excess compensatory leave.
 - b. For exempt employees whose straight compensatory leave balance exceeds the 360-hour cap, payment of up to 200 hours of the excess compensatory leave may be made within 90 days after the beginning of the fiscal year as submitted by the Assistant Secretary and approved by the Deputy Secretary and Undersecretary.
 4. Time and one-half compensatory leave is earned under the provisions of the federal Fair Labor Standards Act. By these regulations covered ("non-exempt") employees are allowed to accumulate up to 240 hours of time and one-half compensatory leave. Non-exempt employees shall receive cash payment as compensation for any overtime hours worked in excess of 240 hours.
 5. Appointing authorities may require employees to use accumulated compensatory leave at any time.
 6. When a non-exempt employee requests the use of his accrued compensatory leave earned at the time-and-one-half rate, the Fair Labor Standards Act requires that his request be approved unless doing so would pose an undue burden on the agency's ability to provide acceptable services to its clients. Under the FLSA mere inconvenience to the employer is an insufficient

reason for denial of a non-exempt employee's request to use compensatory leave earned at the time and one-half rate.

7. Compensatory leave accrued by employees within LDH and remaining to their credit at the time of their transfer within or separation from the Department shall be disposed of as follows:
 - a. A non-exempt employee's accrued compensatory leave shall be paid in cash to the employee by the budget unit under which such leave was earned upon the employee's separation from the budget unit, whether the employee is transferring to another budget unit within LDH or separating from LDH.
 - b. An exempt employee's accrued compensatory leave shall be disposed of as follows:
 - (1) Transfer within LDH: An exempt employee shall only be paid in cash for up to 200 hours in accrued straight time compensatory leave at the time of transfer by the budget unit under which such leave was earned except that up to 200 hours of accrued leave may be transferred with the employee subject to the approval of the head of the budget unit to which the employee is being transferred. The amount paid at transfer and any compensatory leave already paid in cash during the fiscal year cannot exceed 200 hours in total. All remaining straight time compensatory leave shall be canceled at the time of transfer.
 - (2) Separation from LDH: An exempt employee shall only be paid in cash for up to 200 hours in accrued straight time compensatory leave at separation. The amount paid at separation and any compensatory leave already paid in cash during the fiscal year cannot exceed 200 hours in total. All remaining straight time compensatory leave shall be canceled at separation and not reinstated should the employee return to state employment.

D. CIVIL, EMERGENCY AND SPECIAL LEAVE (CIVIL SERVICE RULE 11.23)

1. Civil, emergency and special leave are granted to eligible employees without loss of pay or charge of annual, sick or compensatory leave.
2. Specific provisions for each type of leave are:
 - a. Jury Duty – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave. Civil leave shall be granted to an eligible employee summoned to perform jury duty. When requesting civil leave for jury duty, the employee must furnish a copy of the court summons prior to the date he is to appear in court. Civil leave for this purpose shall

be granted only for the hours the employee is required to be present in court plus reasonable travel time.

- b. Court Summons – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave. Civil leave shall be granted to an eligible employee who is summoned to appear as a witness by a court, grand jury or other public body or commission provided that the employee is not the plaintiff or defendant. Civil leave for this purpose shall be granted only for the hours the employee is required to be present in court plus reasonable travel time. Any employee summoned as a result of employment other than his position within the state service shall not be granted civil leave.
- c. Emergency Civilian Duty in Relation to National Defense – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave. Civil leave shall be granted to an eligible employee performing emergency civilian duty in relation to national defense. The employee requesting such leave must furnish documentation of the need for the leave.
- d. Special Leave/Office Closure (LSOC) - Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave. If a state office location is closed by an appointing authority or other authorized state government official the following provisions apply to eligible employees:
 - (1) Employees scheduled but not required to work at the closed location shall be credited with special leave (LSOC) for the hours affected by the closure.
 - (2) Employees who are required to work at the closed location during the office closure shall be considered to be working overtime for all hours worked during the closure.
 - (3) Employees assigned to work locations that are not closed shall be considered to be on regular duty status and shall not be eligible for special leave (LSOC).
 - (4) Employees on approved annual or sick leave shall be granted special leave (LSOC) instead of being charged with annual or sick leave for the hours affected by the closure.
 - (5) Employees on leave without pay immediately before and after the closure shall not be eligible for special leave (LSOC).
 - (6) Employees shall not be eligible for special leave (LSOC) on their days off.
 - (7) Employees who telework (work at home) are not eligible for LSOC as they are required to work when state government offices are closed and are considered to be on regular duty during such closures.

- e. Special Leave/Act of God (LSAG) – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave.
 - (1) If a state office location is not closed but the appointing authority determines that it is not practical for one or more employees to report to work or remain at work in that location, he may grant special leave (LSAG) on a case-by-case basis to the affected employees. Employees remaining at work are considered to be on regular duty. Granting special leave (LSAG) under this provision should be rare and is reserved for situations such as severe weather conditions.
 - (2) Employees who telework (work at home) may be eligible for special leave (LSAG) as approved by the appointing authority if they are unable to work for office closure reasons such as voluntary or mandatory evacuation orders, home power outages, agency computer system failures or shutdowns, storm warnings, etc.
- f. Special Leave/Local Conditions (LSLC) – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave.
 - (1) If a state office location is not closed, but the appointing authority determines that because of local conditions or celebrations, it is impracticable for one or more employees in such locality to report to work or remain at work, he may grant special leave (LSLC) on a case-by-case basis to the affected employees.
 - (2) This type of special leave (LSLC) shall not be granted for weather-related conditions.
- g. Civil Service Exams/Licensing Board Exams – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave. Special leave shall be granted to eligible employees to take Civil Service exams or state licensing board exams for a maximum of six (6) exams per calendar year. The employee must furnish proof that he took the exam on the date and time specified on his leave request. Failure to provide such proof shall result in the rescission of special leave. For an employee to be eligible for this leave, state licensing board exams must be pertinent to his current state employment.
- h. Pre-induction Physical Examination – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave. An eligible employee who is ordered to report to a pre-induction physical examination for possible entry into the U. S. military shall be granted special leave for the duration of the absence. The employee must furnish proof of the need for this type of leave.
- i. National Guard Emergency Duty – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave. Special leave shall be granted to an eligible employee who is a member of the National Guard and is ordered to active duty

due to a local or state emergency. This type of activation is usually ordered by the Governor.

- j. Attorneys – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave. When an eligible attorney is ordered by the court to represent a client in criminal proceedings and there is no other form of compensation provided he shall be granted special leave so long as he furnishes documentation provided by the court to substantiate the need for the leave.
- k. Civil Air Patrol – Employees serving on permanent, probationary or job appointments are eligible for this type of non-chargeable leave. Special leave not to exceed 15 days per year shall be granted to an eligible employee who is a member of the Civil Air Patrol for field exercises and training. Such leave shall not be used for unit meetings or training conducted during unit meetings.
- l. Funeral Leave – At the discretion of the appointing authority, employees serving on permanent, probationary or job appointment may be granted funeral leave to attend the funeral and/or burial rites of the following relatives: parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grandparent, and grandchild. Funeral leave shall not exceed two days on any one occasion. The employee must provide the name of the deceased and their relationship to the employee when requesting funeral leave.
- m. Voluntary Disaster Service Leave - At the discretion of the appointing authority, a full-time probationary or permanent employee may be granted special leave for a period not to exceed 15 work days in any calendar year, to participate in American Red Cross relief services in Louisiana for disasters designated at Level III or above in the American Red Cross Regulations and Procedures. Such employees must have received a certification from the American Red Cross as a Trained Disaster Volunteer. All such requests must be made in writing and accompanied by a copy of the employee's Red Cross certificate, the nature and location of the disaster, the anticipated duration of the leave, the name and title of the employee's Red Cross Supervisor and a written request from the Red Cross for the employee's services. Upon his return to work the employee must provide written certification from his Red Cross Supervisor that he performed volunteer emergency work along with the number of hours of service.

E. EDUCATIONAL LEAVE (CIVIL SERVICE RULE 11.24)

1. Educational leave is administered in accordance with Civil Service Rule 11.24.
2. The intent of Civil Service Rule 11.24 (b) (educational leave with pay) is to permit an employee to obtain formalized training that will materially assist the employee in conducting his current job duties. Educational leave requests for classes that are only remotely or not at all related to the employee's current job duties must not be approved. These requests should be addressed through regular leave procedures or in accordance with Civil Service Rule 11.24 (a) which allows for leave without pay.

F. MILITARY LEAVE (CIVIL SERVICE RULE 11.26)

1. Military leave is administered in accordance with Civil Service Rule 11.26. Under this rule, maximum military leave with pay for military purposes is 15 working days per calendar year. Provisions for the use of other types of leave for military purposes are contained in Civil Service Rule 11.26.
2. Military leave applies to any employee who is a member of the Reserves or the National Guard and who is called to active duty as a result of a non-local or non-state emergency (usually activated by the President).
3. An employee does not lose the right to his protections under the military leave provisions even when it might be rationally concluded that the employee is abusing the right to volunteer for military service and causing undue hardship for the agency (for example, volunteering for training over and over). However, the appointing authority may contact the appropriate military authority to discuss any problems in this area to try to arrive at a mutually agreeable solution.
4. An employer may not rearrange the work schedule of an affected employee so that the employee is required to work on what normally would be a day off unless this is done to other employees who are involuntarily away from their normally scheduled work.

G. LEAVE WITHOUT PAY (CIVIL SERVICE RULE 11.27; 11.27.1)

1. When an employee fails to request annual leave in advance, the appointing authority may place the employee on leave without pay for the period of the unauthorized absence even if the employee

has annual leave or compensatory leave to his credit. This action is not a disciplinary action.

2. Provisions for leave without pay used for FMLA purposes may be found in LDH Policy #29 - Family and Medical Leave.
3. Leave without pay up to 30 calendar days may be approved by the appointing authority if requested in advance. Requests for leave without pay in excess of 30 calendar days must be referred to the Division of Human Resources, Training and Staff Development and the Bureau of Legal Services for consultation prior to approval.
4. In order to continue to receive benefits, an employee on leave without pay must pay his portion of the premiums according to instructions provided by his human resources office.
5. An employee who does not return to work immediately upon the expiration of approved leave without pay shall be removed from his position or dismissed in accordance with applicable Civil Service Rules. The appointing authority must consult with legal and human resources staff before taking such an action.

H. USE OF ACCRUED LEAVE IMMEDIATELY PRIOR TO RETIREMENT

1. An employee who has submitted a Civil Service Form SF-14 (Resignation and Exit – Interview Report) giving notice that he will retire may be granted up to 20 working days of leave (combination of annual and compensatory leave) by the appointing authority as long as such leave ends immediately prior to the retirement date. The SF-14, once signed by the employee and accepted by the appointing authority, is irrevocable.
2. There is no entitlement to leave prior to retirement; the appointing authority must consider the impact on agency operations before granting such leave.
3. The employee shall not engage in employment during the period of leave that would be prohibited by the Commission on Governmental Ethics, the Civil Service Rules or any other regulations.
4. At the discretion of the appointing authority the leave may be canceled at any time and the employee returned to duty.

I. UNSCHEDULED ABSENCE (CIVIL SERVICE RULE 12.6 [A] 2)

An unscheduled absence occurs when an employee is absent from work without having obtained approved leave by the close of business on the last working day prior to the

absence. Approval of leave, after the fact, to cover an unscheduled absence shall not prevent the absence from being considered unscheduled. A continuous absence for the same reason is one unscheduled absence, regardless of its duration.

J. MATERNITY LEAVE

1. FMLA - The birth of a child is considered a qualifying event under the FMLA. Please refer to LDH Policy #29 – Family and Medical Leave Act Policy for information regarding leave for employees who are eligible to use the FMLA.
2. Louisiana Maternity Leave Law (Louisiana Revised Statutes 23:341 and 23:342, et seq.) – Regardless of FMLA eligibility, a female employee is eligible for up to six weeks of job-protected State Maternity Leave for a normal pregnancy and up to four months of job-protected State Maternity Leave if there is a disabling complication due to pregnancy.
 - a. Under no circumstances shall an employee be granted more than four months of State Maternity Leave for one qualifying event.
 - b. State Maternity Leave runs concurrently with any FMLA leave for which the employee may be eligible.
 - c. The employee shall use all available balances of paid leave (sick, annual, compensatory) while on State Maternity Leave; if paid leave is exhausted, the employee shall be placed on leave without pay for the remainder of the State Maternity Leave period.
 - d. Medical Certification for State Maternity Leave – An employee requesting State Maternity Leave must submit a medical certification documenting the need for the leave.
 - e. Employees returning from State Maternity Leave shall be reinstated to the same or an equivalent position with the same pay, benefits, terms and conditions of employment unless the employee is unable to perform the functions of the position because of a physical or mental condition, including the continuation of a serious health condition.

VI. DISCIPLINARY ACTIONS

Violations of this policy may result in disciplinary action up to and including dismissal.

VII. EXCEPTIONS

The LDH Secretary or Deputy Secretary and the Undersecretary may grant an exception to this policy. However, such exceptions shall not conflict with Civil Service Rules or other regulations.

VIII. REFERENCES

Civil Service Rules (Chapters 11, 12 and 21)
LDH Policy #29 – Family and Medical Leave
LDH Policy #45 – Overtime
LDH Policy #27 – Overtime Compensation for Disaster Operations Work
LDH Policy #82 – Teleworking

IX. REVISION HISTORY

Date	Revision
July 11, 2011	Policy created
October 15, 2014	Policy revised
May 12, 2015	Policy revised
August 01, 2017	Policy revised
January 9, 2019	Housekeeping change – Section V.B.5 on page 3